

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT**

UNITED STATES OF AMERICA

v.

DARRELL LAFLAM

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File No. 1:02-CR-25-01

ORDER

The Magistrate Judge's Report and Recommendation was filed June 20, 2005 (Paper 98). After de novo review and over objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1). Defendant's motion to vacate, set aside, or correct his sentence (Paper 88), filed pursuant to the provisions of 28 U.S.C. § 2255, is GRANTED IN PART and DENIED IN PART. The defendant's convictions for bank robbery (Counts 1 and 3) are VACATED; the convictions for armed bank robbery and attempted witness tampering (Counts 2, 4 and 5) shall remain intact. Defendant's motion for an evidentiary hearing (Paper 97) is DENIED.

The Clerk is instructed to appoint substitute counsel for the defendant. The Court will schedule a resentencing hearing, at which the defendant will be present with counsel, and an Amended Judgment will be issued thereafter.

Defendant's motion to expand the record (Paper 100) is DENIED without prejudice to renew after counsel has been appointed.

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 23rd day of August, 2005.

/s/ J. Garvan Murtha
J. Garvan Murtha
United States District Judge